IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.22960 of 2004

Between:

1 M.A. Samee, S/o. M.A. Khaleel,
Bhainsa, bhainsa Mandal, Adilabad District.
2 S.K. Mobin, S/o. s.KI. Mujahid,
Bhainsa, bhainsa Mandal, Adilabad District.
3 M.A. Nayeem, S/o. Khaleel,
Bhainsa, bhainsa Mandal, Adilabad District.
4 M.A. Basheer, S/o. M.a. Mahaboob Sab,
Bhainsa, bhainsa Mandal, Adilabad District.
5 M.A. Saleem, S/o. M.A. Mahaboob Sab,
Bhainsa, bhainsa Mandal, Adilabad District.
6 M.A. Khallem, S/o. M.A. Khallel,
Bhainsa, bhainsa Mandal, Adilabad District.
7 M.A. Waheed, S/o. M.A. Mahaboob,
Bhainsa, bhainsa Mandal, Adilabad District.
8 Shaik Nayeem, S/o. Shaik Ahmed,
Bhainsa, bhainsa Mandal, Adilabad District.
9 M.A. Mujeeb, S/o. M.A. Babu,
Bhainsa, bhainsa Mandal, Adilabad District.

..... PETITIONERS

AND

1 The Commissioner, Municipal Counsel, Bhainsa Adilabad District.
2 The Chairman, Municipal Council, Bhainsa,
Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of

Mandamus declaring the action of the Respondents in proposing to evict the petitioners from their Mulgies located in the Vegetable Market, Bhainsa, Adilabad District without following due process of law and without issuing any notice of eviction as highly illegal, arbitrary, discriminatory, violative of principles of natural justice and also in violation of Article 19 (1) (G) of the Constitution of India consequently direct the respondents not to evict the petitioners from their Mulgies located in the Vegetable Market, Bhainsa, Adilabad District.

Counsel for the Petitioners: MR.D.RAMESH
Counsel for the Respondents: MR.POLISETTI RADHAKRISHNA

The Court, at the admission stage, made the following:

ORDER:

The writ petition is filed seeking a Mandamus to declare the action of the respondents in proposing to evict the petitioners from their Mulgies located in the Vegetable Market, Bhainsa, Adilabad District without following due process of law and without issuing any notice of eviction as illegal and arbitrary.

The petitioners claim to be small vegetable vendors and doing vegetable business in Bhainsa Municipal Market for the last 30 years by paying Thai Bazar fee (Market Cess). The grievance of the petitioners is that on the instructions of the 2nd respondent-Chairman, the 1st respondent-Commissioner without issuing any notice and without following the due process of law came to the market premises along with his staff on 01.12.2004 and orally directed them to evict the premises.

A counter affidavit is filed by the respondents-Municipality stating that because of unhygienic atmosphere prevailing in the market area to provide basic amenities to the vendors and purchasers it was proposed to construct pucca vegetable stalls with the Government aid and after completion of said construction of stalls, the cases of the petitioners would be considered for allotment of shops. It is also stated that the petitioners also agreed to vacate the premises to enable the Bhainsa Municipality to construct vegetable market.

Heard the learned counsel for petitioners and learned Standing Counsel for respondents-Municipality.

Having regard to the fact that owing to the unhygienic atmosphere prevailing in the market area, the respondents-Municipality is making construction of pucca vegetable stalls to provide basic amenities to the vendors and purchasers and also having regard to the fact that the respondents had agreed for considering the cases of the petitioners for allotment of shops, I deem it appropriate to dispose of the writ petition with a direction to the petitioners to vacate the premises in question within two weeks from today to enable the respondents-Municipality to construct pucca vegetable market and after construction of the said market the respondents-Municipality shall consider the cases of the petitioners for allotment of shops therein on priority basis.

With the above directions, the writ petition is disposed of at the admission stage. No costs.

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(N.V. RAMANA, J)

Date: 28.12.2004

Nsr/Tvk

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner, Municipal Counsel, Bhainsa Adilabad District.
2 The Chairman, Municipal Council, Bhainsa,

Adilabad District.

3 Two CD copies.